

KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS
MEETING MINUTES
January 21, 2022

A regular meeting of the Kentucky Board Chiropractic Examiners was held at the Department of Professional Licensing located at 500 Mero Street, Frankfort, KY 40601 and via Zoom on January 21, 2022.

MEMBERS PRESENT

Dr. Kelly Cooper-Henson

Dr. James England

Dr. Chad Henderson (left at 2:20, back at 2:34; left at 3:00, back at 3:15; left at 3:22)

Dr. Shannon Johnson

Dr. Jeffery Smith (left at 2:38, back at 2:49)

DEPARTMENT OF PROFESSIONAL LICENSING

Kevin Winstead, Commissioner

Tasha Stewart, Administrative Section Supervisor

GUESTS

Dr. Rachel Wendt, KAC

Valerie Hill

Don Oliva

Dr. Christopher Gast

Alexander Vanhooser

OTHERS

August Pozgay, Public Protection Cabinet

Office of Legal Services, Board Counsel

Clay Patrick, DPL General Counsel

CALL TO ORDER

Dr. Smith called the meeting to order at 12:01 p.m.

MINUTES

A motion was made by Dr. Johnson to approve the minutes from the January 3, 2022 board meeting.

Motion seconded by Dr. England, carried.

FINANCIAL STATEMENT

The board reviewed the November and December 2021 financial statements. No action taken.

DPL UPDATE

Commissioner Winstead reported the state of emergency (SOE) was extended to April 14, 2022 in SB 25.

Commissioner Winstead introduced Clay Patrick as new DPL general counsel and announced Board Administrator Stewart was promoted to a supervisor position. A new board administrator will be hired.

LEGAL COUNSEL

Mr. Pozgay presented a drafted memorandum of order to the board concerning SB 25, continuing education requirements, and a renewal reminder. Dr. England made a motion to issue the memorandum of order as drafted in the meeting. Motion seconded by Dr. Henderson, carried.

OLD BUSINESS

The board will allow PACE to perform its audit of all CE courses in lieu of a KBCE audit. Ms. Stewart will request if the board may utilize PACE's doctor feedback form.

Dr. Henderson made a motion for counsel to draft a response to the migraine device question with the three points as discussed in the meeting. Motion seconded by Dr. Johnson, carried.

Dr. Johnson made a motion to recess until 1:46 pm EST. Motion seconded by Dr. England, carried.

Dr. Johnson made a motion to return to regular session. Motion seconded by Dr. England, carried.

Counsel will provide analysis on the EPSDT exam at the next meeting.

Dr. Johnson made a motion to issue the board's Peer Review Committee Vacancies letter to all peer review registry licensees. Motion seconded by England, carried.

NEW BUSINESS

Dr. Johnson made a motion to issue the New Year Message with amendments. Motion seconded by Dr. Smith, carried.

Dr. Johnson made a motion for counsel to draft a letter as discussed in response to the definition question the board reviewed. Motion seconded by Dr. Smith, carried.

Dr. England made a motion to nominate Dr. Henderson as the FCLB conference delegate. Motion seconded by Dr. Johnson, carried.

Dr. Johnson made a motion to nominate Dr. Henderson as the NBCE conference delegate. Motion seconded by Dr. England, carried.

Dr. Johnson made a motion to ask the following questions for the nerve study question the board reviewed: What is the ultrasound being used to diagnose and where did the doctor receive his training? Motion seconded by England, carried.

Dr. England made a motion for counsel to issue a letter as discussed in response to the exam question the board reviewed. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to advise that the ownership inquirer is correct in their interpretation of the board's law. Dr. England made a motion to rescind his previous motion and for counsel to issue a letter advising the inquirer to be consistent with the board's statutes and regulations. Motion seconded by Dr. Johnson, carried.

APPLICATIONS COMMITTEE

The applications committee discussed creating a late fee for continuing education applications that are not received in the 60 day window and requiring physiotherapy NBCE scores for licensure applicants.

Counsel requested the applications committee put their proposal in writing to determine if a regulations change is needed for both discussed items.

Dr. Henderson advised more research is needed for the ongoing CE Broker discussion.

Ms. Stewart reported 1146 inactive and active licensees. As of the report run time, 35 chiropractic and 12 peer review licensees have not completed their 2020 renewal. 141 licensees have not completed their 2021 renewal. 129 licensees have completed their 2022 renewal.

STATUTES AND REGULATIONS COMMITTEE

- KBVE discussion: Ongoing
- Ownership Practice: Ongoing

Dr. Henderson made a motion to enter closed session with counsel and the Board Administrator to discuss the SPEC exam inquiries. Motion seconded by Dr. England, carried. Dr. Johnson made a motion to amend the previous motion as follows: enter closed session to include Board Counsel Mr. August Pozgay and

Board Administrator Ms. Tasha Stewart pursuant to KRS 61.815(1) and KRS 61.810(1)(j)(k) to deliberate on individual adjudications in the matter of the SPEC exam inquiries. Motion seconded by Dr. England, carried.

Dr. Henderson made a motion to leave closed session. Motion seconded by Dr. England, carried. Dr. Johnson made a motion to enter regulation session. Motion seconded by Dr. England, carried.

Dr. Smith made a motion for counsel to issue a letter to all SPEC exam inquirers, with the chair's approval, stating the board can only follow its regulations as they stand, which currently require the SPEC exam for reinstatement after four years of license inactivity/expiration, but the board will continue to research this issue and send to the regulations committee for further research on their end. Motion seconded by Dr. England, carried.

COMPLAINTS COMMITTEE

The Complaints Committee presented the following recommendations for board vote:

- 19-003: Ongoing
- 2019KBCE00005: Ongoing; Resend the proposed agreed order with a statement to the respondent that failure to respond may result in disciplinary action.
- 2020KBCE00001: Ongoing
- 2020KBCE00007: Ongoing; Resend the proposed agreed order with a statement to the respondent that failure to respond may result in disciplinary action.
- 2020KBCE00011: Ongoing
- 2020KBCE00014: Ongoing
- 2021KBCE00001: Ongoing
- 2021KBCE00004: Ongoing; Postpone consideration until next committee meeting.
- 2021KBCE00008: Ongoing; Resend the proposed agreed order with a statement to the respondent that failure to respond may result in disciplinary action.
- 2021KBCE00009: Ongoing; authorize counsel to discuss settlement offer with no finding of wrongdoing if licensee can demonstrate with written verification of closure of practice and disability hardship (doctor's letter).
- 2021KBCE00010: Ongoing; Counsel will research the cost of process service and other options.
- 2021KBCE00012: Ongoing
- 2021KBCE00013: Ongoing
- 2021KBCE00014: Ongoing; Counsel will research the cost of process service and other options.
- 2021KBCE00016: Ongoing
- 2021KBCE00017: Ongoing
- 2021KBCE00019: Ongoing
- 2021KBCE00020: Ongoing
- 2021KBCE00021: Ongoing
- 2021KBCE00025: Ongoing.
- 2021KBCE00028: Ongoing; Continue investigation.
- 2021KBCE00029: Ongoing; Authorize Counsel to correspond with respondent's counsel to request plan for future record storage and patient retrieval, verification that practice is closed, and

verification that the complainant received their records. Remind respondent of legal requirement to maintain patient records for seven (7) years.

- 2021KBCE00030: Ongoing
- 2021KBCE00033: Recommend dismissal.
- 2021KBCE00034: Ongoing
- 2021KBCE00036: Ongoing; Send a statement to the respondent that failure to respond may result in disciplinary action.
- A.M. Guilty Plea: Ongoing
- ABC Complaint: Ongoing
- Active Agreed Orders: Ongoing
- Crude Email: Ongoing
- DOI Report: Ongoing
- Mass. Complaints: Ongoing
- 2021KBCE00032 Inquiry: Ongoing
- DUI Report: Ongoing
- FFC Complaint: Ongoing

A motion was made by Dr. England to accept the above-listed complaint committee recommendations as presented for affirmative vote. Motion seconded by Dr. Cooper-Henson, carried.

Dr. England made a motion to enter closed session to include Board Counsel Mr. August Pozgay and Board Administrator Ms. Tasha Stewart pursuant to KRS 61.815(1) and KRS 61.810(1)(j)(k) to deliberate on individual adjudications in the matter of case 19-003. Motion seconded by Dr. Johnson, carried.

Dr. England made a motion to leave closed session. Motion seconded by Dr. Cooper-Henson, carried.

Dr. Smith made a motion to authorize counsel to spend up to \$7,500 on the 19-003 hearing. Motion seconded by Dr. Johnson, carried.

TRAVEL AND PER DIEM


A motion was made by Dr. Smith to approve the following per diem:

- Drs. Cooper-Henson, England, Henderson, Johnson, and Smith – January 3, 2022 meeting.
- Drs. Cooper-Henson, England, Henderson, Johnson, and Smith – January 21, 2022 meeting.
- Dr. Cooper-Henson – November 19, 2021 (2.5 hours – applications review), December 13, 2021 (1 hour – applications review), and December 30, 2021 (3 hours – applications review).
- Dr. England – December 30, 2021 (3 hours –meeting preparation), January 19, 2022 (3 hours – meeting and meeting preparation), and January 20, 2022 (3 hours – meeting preparation and meeting).
- Dr. Henderson – July 1, 2021 (3 hours – applications review), August 1, 2021 (3 hours- applications review), September 1, 2021 (3 hours – applications review), October 1, 2021 (3 hours – applications review), November 1, 2021 (3 hours – applications review), and December 1, 2021 (3 hours – applications review).
- Dr. Johnson – December 13, 2021 (3 hours – complaints review and regulation changes) and December 30, 2021 (3 hours – complaints review and regulation changes).
- Dr. Smith – October 1, 2021 (1 hour – correspondence), November 1, 2021 (1 hour – correspondence), and December 1, 2021 (20 minutes – correspondence).

Motion seconded by Dr. England, carried.

ADJOURN

A motion was made by Dr. England to adjourn the meeting at 3:31 p.m. Motion seconded by Dr. Johnson, carried.



Dr. Jeffery Smith, Chair